

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 615 of 1979

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARGISBANU F PARDIWALA

Versus

STATE OF GUJARAT

Appearance:

MR S C SHAH FOR MR SN SHELAT for Petitioner
GOVERNMENT PLEADER for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 08/04/99

ORAL JUDGEMENT

The original plaintiff of Civil Suit No.17 of 1978 has challenged the judgment and decree dated 25-9-1978 passed by the learned Civil Judge (S.D.) Valsad, dismissing the plaintiff's suit for recovery of a sum of Rs.14,250/- with interest.

2. The plaintiff is an agriculturist. She was having some grass lands. At the relevant time, in the year 1973, cattle fodder was covered under the definition of essential commodity as defined by the Essential Commodities Act, 1955 (hereinafter referred to as the Act). Being a controlled commodity the Collector was empowered to purchase the grass price to be fixed as per the control order. In consultation with the Grass Utpadak Sahakari Mandli, Vapi, the Collector had fixed the purchase price at Rs.131/- per 500 Kgs. The Collector purchased 2100 bales of grass from the appellant-plaintiff. Since the grass in question called "Mushi Bordi" was not pure but mixed with "Raida" the Collector reduced the price and fixed the same at Rs.129/70p per 500 kgs. The plaintiff was paid price on that basis. However, the plaintiff claimed that she was entitled to claim market price for the same which was alleged to be Rs.161/- per 500 kgs. The plaintiff also examined two witnesses to show that the market price was around Rs.161/- per 500 kgs.

3. On the other hand the defendant authorities came forward with the case that the price of "Mushi Bardi" for the purpose of acquisition of the same has been fixed at Rs.131/- per 500 kgs. and that each one from whom the grass was purchased during the period under reference, was paid purchase price at the same rate. Even letter dated 12-2-1973 (Ex.122) written by the President of Ghas Utpadak Sahakari Mandli agreeing to sell grass to the defendants at the rate of Rs.131/- per 500 kgs. was produced before the Court. Ex. 123 a notification issued by the Government sanctioning the purchase price for the aforesaid category of grass at Rs.131/- per 500 kgs. was also produced before the Court.

4. In view of the aforesaid material on record the learned trial Judge has rightly given credence to the price fixed in consultation with the Ghas Utpadak Sahakari Mandli Ltd. over the evidence of the two interested traders and no fault can be found with the judgment and decree passed by the trial Court dismissing the plaintiff's suit. The appeal is therefore, dismissed. There shall be no order as to costs in this Appeal.

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